

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

B.C.

Claimant,

v.

FRANK D. LANTERMAN
REGIONAL CENTER,

Service Agency.

OAH No. 2011010858

DECISION

Daniel Juárez, Administrative Law Judge, Office of Administrative Hearings, heard this matter on May 19, 2011, in Los Angeles, California.

B.C. (Claimant) represented himself.¹ Claimant's father assisted him in communicating at hearing. Eun Hee Lee, Certified Court Interpreter, provided language interpretation services.

Marc Baca, Appeals Coordinator, represented the Frank D. Lanterman Regional Center (Service Agency).

The parties submitted the matter for decision on May 19, 2011.

STATEMENT OF THE CASE

Claimant asks the Service Agency to fund \$500 per month on-going rental assistance.

¹ Initials are used to identify Claimant and his representative to protect Claimant's confidentiality.

The issue in this matter is whether the Service Agency properly denied rental assistance to Claimant.

FACTUAL FINDINGS

1. By letter to the Service Agency's Executive Director, on December 28, 2010, Claimant requested that the Service Agency fund on-going rental assistance. On January 11, 2011, the Service Agency denied Claimant's request, citing Welfare and Institutions Code section 4689, subdivisions (h) and (i). (See Legal Conclusion 1 for the statutory wording.) Claimant then filed a request for hearing, dated January 20, 2011. On February 22, 2011, the Service Agency upheld its initial denial after an informal meeting, in accordance with Welfare and Institutions Code sections 4710.7. In this second letter of denial, the Service Agency additionally cited to Welfare and Institutions Code section 4646, subdivision (a), among other provisions. (See Legal Conclusion 2.)

2. Supported living is a living arrangement for persons with developmental disabilities wherein the person with the disability lives in his or her own home, outside of his or her family home, and receives supports and services necessary to maintain that independent living arrangement.

3. Claimant is a 44-year-old man with severe cerebral palsy and mild mental retardation. He uses a wheelchair. He requires assistance to eat and perform personal care tasks. He understands and speaks both English and Korean. While his cerebral palsy limits his physical activity, Claimant attempts to perform many of his own personal care tasks.

4. For approximately 14 years, Claimant lived in his own apartment in Gardena, California. The evidence did not establish the dates of his occupancy. The apartment complex was intended primarily for seniors. His rent was approximately \$205 per month; it was subsidized by the United States Housing and Urban Development agency (HUD). Claimant lived on a first floor unit, and Claimant's father lived on a third floor unit in the same complex.

5. In April 2010, Claimant moved into an apartment complex in Glendale, California, managed by the United Cerebral Palsy organization (UCP). The UCP apartments were intended to provide housing to persons with disabilities like Claimant. Claimant's living situation at the UCP apartments was a supported living arrangement. The Service Agency agreed to fund the following services for Claimant related to his housing: one hour of "emergency back up" services per month (to assist Claimant with any housing related emergencies); \$276 per month of administration support (logistical and administrative support to ensure the continuation of his living arrangement and that his living arrangement met his needs); 20 hours per month of training and habilitation services through UCP (the evidence did not define this service); and 27 hours per month of personal support services (any personal assistance required to ensure his living arrangement met his needs).

6. While living at the UCP apartments, Claimant encountered problems with his housing. Specifically, Claimant had a difficult time entering his building because the building entrance did not have a power door. His apartment's front door also did not have a power door, but one was subsequently installed at his unit's entrance.² Claimant also complained that his bathroom sink was too high, and that UCP staff was not always readily available to assist him in his personal care needs. Claimant complained to the Service Agency that overall, UCP failed to repair things and failed to provide the services he needed. In November 2010, Claimant told the Service Agency that he was "fed up" with the UCP apartments, he did not want to live there any more and wished instead to move into another apartment complex.

7. Claimant felt that UCP was not making repairs or assisting him as needed, but the evidence established the contrary. That is, while Claimant did encounter problems with the accessibility of his apartment unit, UCP was responding to Claimant's complaints. The evidence established that throughout the majority of Claimant's occupancy at the UCP apartments (a total of approximately eight months), the Service Agency advocated on Claimant's behalf to UCP, directed Claimant to UCP with advocacy information and support, and assisted him generally to request housing accommodations. UCP was working with Claimant to make repairs and accommodate his needs.

8. Claimant testified that his current income is approximately \$772 per month.³ His income is largely from Social Security Supplemental Security Income (SSI).

9. The Service Agency advised Claimant to stay in the UCP apartments and seek housing accommodations as necessary from UCP. The Service Agency explained to Claimant that, due to his limited monthly income, subsidized housing, and in particular, housing like that of the UCP apartments, was hard to come by, was very affordable, and best met his physical needs. The Service Agency informed Claimant's father of its recommendation that Claimant remain in the UCP apartments. Claimant's father is very involved in Claimant's life. Claimant's father appeared to understand that the UCP apartments were Claimant's best economic option.

10. Nevertheless, Claimant chose to move out of the UCP apartments in approximately December 2010. He moved into an apartment in Los Angeles. He now pays approximately \$866 per month in rent. Claimant lives with his father. Claimant pays \$650 per month in rent and his father pays the remainder. Claimant asks that the Service Agency pay \$500 per month, on-going rental assistance. Claimant asserted that his current apartment meets his disability-related needs, but with a significantly greater rent, he has insufficient money with which to pay his utilities, food, and other expenses.

² Claimant testified that the installed power door frequently failed to work properly.

³ Claimant submitted a written statement at hearing asserting that his income is \$865 per month. The evidence did not reconcile this difference.

11. Despite the accessibility problems with the UCP apartments, nothing in the evidence, including Claimant's current individual program plan (IPP), demonstrated that living in his current Los Angeles apartment was the only living arrangement that would meet his disability-related needs. The evidence did not establish that staying at the UCP apartments would have endangered his health and safety, or that his current Los Angeles apartment is a living arrangement necessary to maintain his health and safety.

LEGAL CONCLUSIONS

1. Welfare and Institutions Code section 4689 states in part:

Consistent with state and federal law, the Legislature places a high priority on providing opportunities for adults with developmental disabilities, regardless of the degree of disability, to live in homes that they own or lease with support available as often and for as long as it is needed.

(h) Rent . . . payments of a supported living home and household expenses shall be the responsibility of the consumer and any roommate who resides with the consumer.

(i) A regional center shall not make rent . . . payments on a supported living home . . . except under the following circumstances:

[¶] . . . [¶]

(1)(A) The regional center executive director verifies in writing that making the rent . . . payments . . . is required to meet the specific care needs unique to the individual consumer as set forth in an addendum to the consumer's individual program plan, and is required when a consumer's demonstrated medical, behavioral, or psychiatric condition presents a health and safety risk to himself or herself, or another.

[¶] . . . [¶]

(1)(C) The regional center shall not make rent . . . payments on a supported living home . . . for more than six months, unless the regional center finds that it is necessary to meet the individual consumer's particular needs pursuant to the consumer's individual program plan.

2. Welfare and Institutions Code section 4646, subdivision (a) provides in part that it is the Legislature's intention in the provision of services and supports by the regional center system to "reflect the cost-effective use of public resources."

3. California Code of Regulations, title 17, section 58611, states in part:

(b) The regional center shall not pay any costs incurred by a consumer receiving SLS [supported living services] in securing, occupying, or maintaining a home rented, leased, or owned by the consumer except when the executive director of the regional center has determined that:

(1) Payment of the cost would result in savings to the State with respect to the cost of meeting the consumer's overall services and supports needs.

(2) The costs can not be paid by other means, including available natural or generic supports.

4. Claimant was frustrated by the accessibility problems he encountered at the UCP apartments. This Decision does not intend to minimize Claimant's frustration or the difficulty of the accessibility problems he faced. However, the evidence established that the advocacy provided by the Service Agency, in concert with Claimant's efforts, had steadily obtained the accommodations Claimant required. Furthermore, the UCP apartments were cost-effective for Claimant.

5. Claimant may choose where he lives. While Claimant may exercise that right, however, he cannot require the Service Agency to pay a portion of his increased rent as a consequence unless the evidence meets the Legislature's requirements in Welfare and Institutions Code section 4689, subdivision (i).

6. The evidence did not establish that paying any portion of Claimant's rent would meet Claimant's needs as documented in his individual program plan or that Claimant's medical or behavioral conditions would present a health or safety risk without such payments. There was no evidence that the Service Agency's executive director has verified in writing any facts supporting such findings. The evidence did not establish the requirements set forth by the Legislature for rental payment assistance. Therefore, it is appropriate to deny his appeal.

7. Cause exists to deny Claimant's appeal, as set forth in Factual Findings 1-11, and Legal Conclusions 2-6.

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ORDER

Claimant's appeal is denied.

Dated: June 2, 2011

DANIEL JUAREZ
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision. This Decision binds both parties. Either party may appeal this Decision to a court of competent jurisdiction within 90 days.